

SPECIAL EDUCATION RIGHTS AND STRATEGIES: WHAT TO DO WHEN YOU HIT A ROADBLOCK



Hinkle, Fingles & Prior
Attorneys at Law

Representing people with disabilities and their families since 1974



The Arc.
of New Jersey



Learning Knows No Bounds



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IDEA'S GOAL

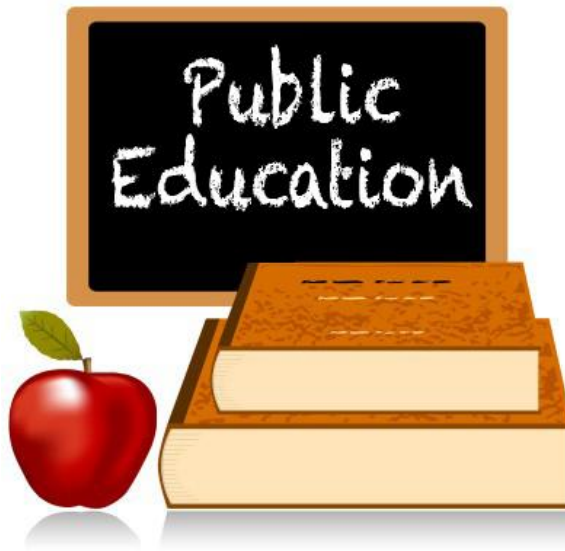
Prepare students for success after graduation in:

- Employment
- Further Education
- Independent Living



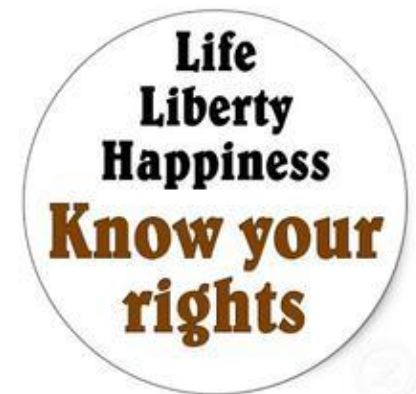
IDEA'S GUARANTEE

All students will receive a **Free
Appropriate Public Education
(FAPE)** in the **Least Restrictive
Environment (LRE)**



Know Your Rights

- IDEA itself is complicated
- State Regulations –School Districts’ “Bible”
- Federal Regulations – 34 C.F.R. Part 300
- Parental Rights in Special Education (“PRISE”)
- Law focuses on procedures, not substance
- *Don’t Get Caught Up In Details!*



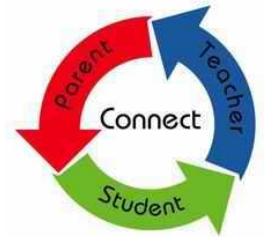
SIX STEPS OF THE SPECIAL EDUCATION PROCESS

- Identification
- Evaluation
- Classification
- Development of IEP
- Development of Placement
- Repeat



The Law: Parental Participation is Key

- Parents are entitled to participate and provide input at each stage of the process
- Parents are to be treated as “equal members” of the team
- According to the United States Supreme Court:
Congress sought to protect individual children by providing for parental involvement in the development and formulation of the child's individual educational program. Parents and guardians will not lack ardor in seeking to ensure that handicapped children receive all of the benefits to which they are entitled by the Act.



WHAT MAKES AN IEP “APPROPRIATE”

- “Best” vs. “Appropriate”
- An “Appropriate” IEP is designed to confer SIGNIFICANT and MEANINGFUL BENEFIT in ALL AREAS impacted by the student’s disabilities
- Goal is to allow the student to PROGRESS in significant and meaningful ways to overcome limitations of disabilities
- Must take into account student’s POTENTIAL



Having A Procedurally Appropriate IEP Minimizes Risks of Disputes

- Specific, Objective, Observable, Measurable:
 - Present Levels of Academic Achievement and Functional Performance
 - Goals and Objectives
- Incorporate Structured Data Collection Wherever Possible
- Specific Statement of Special Education and Related Services
- Parental Concerns Documented in IEP



Be a “Team Player”



- Ask for their ideas of how to resolve issues
- Attend all meetings
- Sign all releases unless there's a good reason not to
- Consent to all evaluations unless there's a good reason not to
- Visit all proposed programs
- Make your professionals available to District



Build Your Own Team

- Secure documentation and support from outside professionals
 - Pediatrician
 - Medical Specialists
 - Therapists and Other Service Providers
- Hire Private Consultants
 - *If possible*, use professionals recommended by District
 - School psychologist/neuropsychologist
 - Prior Involvement with public schools preferred
 - Use M.D.'s with caution
- Secure District-Funded Independent Evaluations



Make a Clear Record

- Everything Important Should Be in Writing
- OK to talk, but make sure to follow up in writing
- Email is OK, but always end with a question
- If no response from District, confirm their position in writing
- Share your meeting notes, notes of conversations and observations, etc.



Use Your Informational Advantage

- Keep District informed about child's functioning outside of school
 - Time/Effort Spent on Homework
 - Behavior
 - Socialization
 - Emotional State
 - Relationships
 - Demonstration of Skills Listed in IEP
- Consider Use of Communication Log, but *keep copies*
- Invite District staff to observe student outside of school



Keep District Informed of Services and Supports Outside of School

- Inform District of any therapy or treatment provided outside of school
 - Share records and reports from private providers
 - Consider bringing private providers to meeting
- Same for Non-District Extracurricular Activities
 - Music lessons
 - Athletics/Sports
 - Boy Scouts/Girl Scouts
 - Etc.
- Inform District of any medication changes





Don't Tie Your Own Noose

- Avoid The “Crazy Parent” Conundrum
- Treat all District employees and agents respectfully and as professionals
- Advocate Ardently, not Argumentatively
- No Personal Attacks
- Avoid singling out individuals –voice concerns in terms of the “system,” not the individuals who comprise it
- Be nice if you can



When Do I Need An Attorney?

- Now!!!
- Early involvement of legal counsel can help avoid disputes if possible, or position for success in litigation if necessary
- Consider when to inform District that you're working with an attorney



IDEA Dispute Resolution Procedures

- Mediation
- Resolution Sessions
- Settlement Conferences
- Due Process Hearings
- Appeals to State or Federal Court
- *The Overwhelming Majority of Due Process Hearings Requested Settle*
- Attorneys Fees Are Recoverable If Parents Prevail



Thank you!

Questions?

- We offer free articles and information
- Free speaking events and workshops
- Locations in New Jersey and Pennsylvania

Please visit our website www.hinkle1.com

Or call

609-896-4200



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